

**HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
And
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY**

WRIT APPEAL NO.868 OF 2007

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Between:
The Joint Director of Agriculture, Guntur
and another.

..... Appellants

AND

M/s. Sri Anjaneya Enterprises, OUB Road,
Guntur represented by its Proprietor.

.....Respondent

::JUDGMENT::

Counsel for the Appellants : Government Pleader for
Cooperation

Counsel for the Respondent : Sri T.Srikanth Reddy

Dated 11/10/2007

Per Sri G.S.Singhvi, CJ

This is an appeal by the Joint Director of Agriculture, Guntur and another for setting aside order dated 08.3.2007 passed by the learned Single Judge in Writ Petition No.1002 of 2007 whereby he quashed the decision of the Appellate Authority-cum-Commissioner and Director of Agriculture, Government of Andhra Pradesh (appellant No.2 herein) under the Insecticides Act, 1971 (for short, 'the Act').

A perusal of the record shows that Writ Petition No.2162 of 2005 filed by the respondent for quashing orders dated 17.11.2004 and 13.12.2004 passed by the appellants herein in the matter of cancellation of licence was allowed by the learned Single Judge and non-petitioner No.2 (appellant No.2 herein) was directed to pass fresh order after giving opportunity to the writ petitioner (the respondent herein) to explain its position. However, without considering the respondent's request to consider the additional evidence produced by it, respondent No.2 again dismissed the appeal.

The learned Single Judge referred to the order passed in Writ Petition No.2162 of 2005 and order dated 13.12.2006 passed by non-petitioner No.2 (appellant No.2 herein) and held that the latter has virtually rendered the direction given by the Court nugatory. Accordingly, he quashed the orders passed by the appellants.

We have heard learned counsel for the parties. While disposing of Writ Petition No.2162 of 2005, this Court held as under:

"All this would show that though the petitioner has accepted that it was his mistake in not signing the bills, no enquiry was made into the truth or otherwise of such submission made by the petitioner. Both the authorities have assumed the explanation given by the petitioner as an admission and cancelled the authorization.

In this view of the matter, I am of the opinion that the petitioner should have been given an opportunity to show that it was a real mistake on

his part in not signing the bills. Such an opportunity was not given in this regard. Therefore, the impugned order dated 17.11.2004 as confirmed by the 2nd respondent vide orders dated 31.12.2004 is liable to be set aside and is accordingly set aside.”

In compliance of the direction given by the Court, appellant No.2 was required to give effective opportunity of hearing to the respondent, but despite the written request made in that behalf, appellant No.2 refused to consider the evidence sought to be produced by the representative of the respondent.

The learned Single Judge quashed the reiteration of earlier decision by the Appellate Authority by observing that the order passed by it is perverse. This is evinced from the impugned order, the operative portion of which is extracted below:

“The 1st respondent has virtually rendered the specific direction issued by this Court, nugatory. It would have been a different thing, had he expressed the view, that the affidavits are not genuine, or that he is not satisfied with the explanation. However, he struck to his original stand, despite the specific directions of this Court. The fact, that the bills do not contain the signatures, was clear, and no doubt existed, about it. This Court took note of the same, and directed the matter be examined with reference to fresh evidence. For all practical purposes, the 1st respondent closed the issue by observing that, since the bills were not signed, on the date of sale, no fresh evidence can be taken into account. This view cannot be appreciated, particularly when the 1st respondent did not express any doubt, about the genuinity of the evidence, produced by the petitioner. The whole basis of enquiry, or appeal, would be the appreciation of evidence, and no authority can declare, that he would not take the evidence into account. Such a course would lead to perversity.”

In our opinion, the approach adopted by the learned Single Judge does not suffer from any infirmity. Undisputedly, appellant No.2 declined to entertain the evidence sought to be produced by the respondent. This naturally resulted in denial of effective opportunity of hearing to the respondent. Therefore, we do not see any reason to interfere with the declaration made by the learned Single Judge that order dated 13.12.2006 is vitiated due to violation of the rules of natural justice. At the same time, we are convinced that instead of

quashing the order passed by appellant No.2 and leaving the matter there, the learned Single Judge should have remitted the matter to the said appellant with a direction to decide the matter afresh in the light of order passed in Writ Petition No.2162 of 2005.

In the result, the appeal is partly allowed. The order of the learned Single Judge is upheld insofar as it relates to quashing of orders dated 17.11.2004 and 13.12.2006 passed by appellant Nos. 1 and 2 respectively is concerned. However, liberty is given to appellant No.2 to pass fresh orders after giving opportunity of personal hearing to the representative of the respondent.

Since the matter has remained pending in the courts for the last more than 2 years, we direct the concerned authority to pass appropriate order within a maximum period of three months.

G.S.SINGHVI, CJ

11.10.2007

C.V.NAGARJUNA REDDY, J

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